

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 12081 of 1994

Between:

1. Gudivada Pulla Rao (**DIED**)

S/o.Venkatappaiah
Doorlavari Street, Guntur.

2. G.V. Krishna Murali, 71 years,

s/o. late G. Pulla Rao,

r/o. 16-18-32, Guntur.

3. G. Soma Sekhera Rao, 64 years,

s/o. Late G. Pulla Rao,

M.C.H.No.546, Gandhinagar,

Secunderabad.

4. G.J. Samanatha Rao, 62 years,

s/o. late G.Pullu Rao,

r/o. 16-18-32, Old Guntur, Guntur.

5. G. Rupa Chandra rao, 59 years,

s/o. late G.Pullu Rao,

r/o. 16-18-32, Guntur.

6. G.Ch. Gopala Rao, 49 years,

s/o. late G.Pullu Rao,

r/o. Kaman Road, Khammam.

7. G.S. Mahadeva Rao, 40 years,

s/o. late G. Pulla Rao,
Sharaf Bazar, Tenali.

(Petitioners 2 to 7 are brought on record
as LR's of the deceased-petitioner as per
Court Order dated 16-07-2004 in W.P.M.P.
No.309 of 2004)

..... PETITIONERS

AND

- 1 Commissioner of Land Reforms & Urban Land Ceilings
and the Appellate Authority under the Urban Land (Ceilings
and Regulation) Act, 1976 Hyderabad.
- 2 State of A.P Rep.by its Secretary
Revenue Dept Hyderabad.
- 3 Special Officer and Competent Authority
Urban and Ceilings Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari to quash and set aside the impugned order of the 1st respondent in his C.No.AUG.3/7359/89 dated 17-4-1993, and pass such other order or orders.

Counsel for the Petitioners: MR.M.GUNNESWARA RAO

Counsel for the Respondents: G.P. FOR REVENUE

The Court made the following:

-

ORDER:

The petitioner, who is one of the declarant under the provisions of Urban Land (Ceiling and Regulation) Act, 1976, filed this writ petition *inter alia* assailing the orders bearing C.No.AUG/3/7359/89, dated 17-04-1993 passed by the Appellate Authority i.e., 1st respondent herein remanding the matter for fresh consideration to the Special Officer and Competent Authority, Urban Land Ceilings i.e., 3rd respondent herein for enquiry and disposal.

The grievance of the petitioner is that though the petitioner has several grounds for the benefit of exemption of the land under the provisions of Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') the first respondent without considering the same, simply remanded the matter to the third respondent for enquiry under the Act. He further submits that his case is covered by the decision of this Court in ***Venkata Reddi Vs. Commissioner of Land Reforms & Urban Land Reforms & Urban Land Ceilings*** wherein it was held that even if the land is kept fallow, it must be treated as agricultural land unless contrary is proved. Hence, he submits that the primary authority as well as the appellate authority failed to consider the case of the petitioner that the lands covered by the building and the land appurtenant to the building and the lands in different T.S. numbers in Ward No.9, Block No.11 must be excluded though they are earmarked for non-agricultural purpose in the master plan.

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

Having heard the learned counsel on either side and also on perusal of the entire material available on record it is to be seen that the petitioner raised substantial questions which require detailed enquiry and consideration by the appellate authority and therefore there would be no impediment in remanding the matter *de nova* for fresh enquiry by the appellate authority.

Accordingly the Writ Petition is allowed setting aside the impugned order dated 17-04-1993 passed by the first respondent and again the matter is remanded to the Appellate Authority-1st Respondent and he is directed to conduct fresh

enquiry and pass appropriate orders in accordance with law, taking into all objections of the petitioner, after giving due notice and opportunity to both sides. It shall be open for the petitioner herein to substantiate his claim by adducing any other evidence both oral and documentary, which will be considered and passed appropriate orders. No costs.

B. Prakash Rao,J.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the Sixteenth day of July, Two Thousand and Four.

16th July, 2004.

Isn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Land Reforms & Urban Land Ceilings

and the Appellate Authority under the Urban Land (Ceilings
and Regulation) Act, 1976, Hyderabad.

2 The Secretary, Revenue Department,

Government of A.P., Hyderabad.

3 Special Officer and Competent Authority
Urban and Ceilings, Guntur.

4. 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

5. 2 CD copies